

C. S. Lifer

For all Ranks of People,

POLITICAL INSTRUCTIONS.

PART I.

ON THE BILL OF RIGHTS.

ON THE LIBERTY OF THE PRESS.

PART II.

ON A REFORM IN PARLIAMENT, AND ITS
PROBABLE CONSEQUENCES.

PART III.

ON POPULAR DISCONTENTS.

ON THE MOB.

ON THE DESTRUCTION OF THE ENGLISH CON-
STITUTION.

L O N D O N :

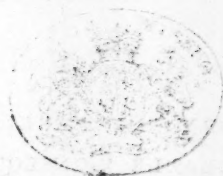
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PART I.

ON THE
A circular stamp from the British Museum is positioned over the words 'ON THE'. The stamp features a crown at the top and the words 'BRITISH' and 'MUSEUM' around the perimeter.
BILL OF RIGHTS,
AND THE
LIBERTY OF THE PRESS.

THAT all men are born free, is so far from being true, that the first infringement of this liberty is being born at all; which is imposed upon them, without their consent, given either by themselves or their representatives; and it may be easily shewn, that man, by the constitution of his nature, never subsists a free and independent being, from the first to the last moment of his residence in this terrestrial globe; where, during the first nine months of his existence, he is confined in a dark and sultry prison, debarred from light and air; till at length, by a *habeas corpus*, brought by the hand of some kind deliverer, he is set at liberty; but what kind of liberty does he then enjoy? He is bound hand and foot, and fed upon bread and water for as long a period; no sooner is he unbound than it becomes necessary that he should be placed in a state of the severest discipline, first under a nurse, and then a school-master, both equal tyrants in their several departments, by whom he is again confined without law, condemned, and whipped, without mercy. In this state of slavery he continues many years; next he commences slave to the laws he never assented to and subject to some civil government to whose authority he is obliged to submit, and however ingeniously he may dispute its rights, unless he obeys he is hung up like a dog. Does he not daily depend on his servants for obedience; on his baker and butcher for his dinner, and on the magistrates for justice? Such indeed is the boasted INDEPENDANCE of man!

SOAME JENYNS, Esq.

S E C T. I.

DECLARATION OF OUR RIGHTS.

LIBERTY denotes a state of *freedom*, in contradistinction to *slavery* or *restraint*; and may be considered as either *natural* or *civil*.

The absolute *rights* of man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing those measures which appear to him to be most desirable, are usually summed up in one general appellation, and denominated the *natural liberty of mankind*.—This natural liberty consists properly in a power of acting as one thinks fit, without any restraint or controul, unless by the law of nature; being a right inherent in us by birth, and one of the gifts of God to man at his creation, when he endued him with the faculty of free-will.—*But every man, when he enters into society, gives up a part of his natural liberty, as the price of so valuable a purchase; and, in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish.*—And this species of legal obedience

and conformity is infinitely more *desirable* than that *wild* and *savage liberty* which is sacrificed to obtain it.—*For no man, that considers a moment, would wish to retain the absolute and uncontrouled power of doing whatever he pleases; the consequence of which is that every other man would also have the same power; and then there would be no security to individuals in any of the enjoyments of life.*

Political, therefore, or civil, liberty, which is that of a member of society, is no other than natural liberty, so far restrained by human laws (and no farther) as is necessary and expedient for the general advantage of the public.—Hence we may collect, that the law, which restrains a man from doing mischief to his fellow citizens, though it diminishes the natural, increases the civil liberty of mankind: but every wanton and causeless restraint of the will of the subject, whether practised by a monarch, a nobility, or a popular assembly, is a degree of tyranny.—Nay, that even laws themselves, whether made with or without our consent, if they regulate and constrain our conduct in matters of mere indifference, without any good end in view, are laws destructive of liberty: whereas, if any public advantage can arise from observing such precepts, the controul of our private inclinations, in one or two particular points, will conduce

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to preserve our *general freedom* in others of more importance, by supporting that state of society which alone can secure our independence.—Thus the statute of king EDWARD IV. which forbid the fine gentlemen of those times (under the degree of a lord) to wear *pikes* upon their shoes or boots of *more than two inches in length*, was a law that favoured of oppression; because, however ridiculous the fashion then in use might appear, the restraining it by pecuniary penalties could serve no purpose of common utility.—But the statute of King CHARLES II. which prescribes a thing seemingly as indifferent, viz. a dress for the dead, who were all ordered to be *buried in woollen*, is a law consistent with public liberty; for it encourages the staple trade, on which in great measure depends the universal good of the nation.—So that laws, when *prudently framed*, are by no means *subversive*, but rather *introductive*, of liberty; for (as Mr. Locke has well observed) *where there is no law there is no freedom*.—But then, on the other hand, that constitution or frame of government, that system of laws, is alone calculated to maintain civil liberty, which leaves the subject entire master of his own conduct, except in those points wherein the *public good* requires some direction or restraint.

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THE IDEA AND PRACTICE OF THIS POLITICAL OR CIVIL LIBERTY FLOURISH IN THEIR HIGHEST VIGOUR IN THESE KINGDOMS, WHERE IT FALLS LITTLE SHORT OF PERFECTION, AND CAN ONLY BE LOST OR DESTROYED BY THE FOLLY OR DEMERITS OF ITS OWNER; the legislature, and of course the laws of Britain, being peculiarly adapted to the preservation of this *inestimable blessing* even in the *meanest subject*.—Very different from the modern constitutions of other states on the continent of Europe, and from the genius of the imperial law; which in general are calculated to vest an arbitrary and despotic power, of controuling the actions of the subject, in the prince, or in a few grandees.—*And this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a slave or a negro, the moment he lands in Britain, falls under the protection of the laws, and so far becomes a freeman; though the master's right to his service may possibly still continue.*

The absolute rights of every Briton (which, taken in a political and extensive sense, are usually called their *liberties*), as they are founded on nature and reason, so they are *cœval* with our form of government; though subject at times to *fluctuate and change*, their establish-

ment (excellent as it is) being still *human*.—At some times we have seen them depressed by *overbearing and tyrannical princes*; at others, so luxuriant as even to tend to *anarchy, a worse state than tyranny itself, as any government is better than none at all*.—But the vigour of our free constitution has always delivered the nation from these embarrassments: and, as soon as the convulsions consequent on the struggle have been over, the *balance* of our rights and liberties has settled to its proper *level*; and their fundamental articles have been from time to time asserted in parliament, as often as they were thought to be in danger:

First, by the *great charter of liberties*, which was obtained, sword in hand, from King JOHN, and afterwards, with some alterations, confirmed in parliament by King HENRY III. his son.—Which charter contained very few new grants; but, as Sir Edward Coke observes, was for the most part declaratory of the principal grounds of the fundamental laws of England.—*Afterwards*, by the statute called *confirmatio cartarum*, whereby the great charter is directed to be allowed as the common law; all judgments contrary to it are declared void; copies of it are ordered to be sent to all cathedral churches, and read twice a year to the people; and sentence of ex-communication

communication is directed to be as constantly denounced against all those that by word, deed, or counsel, act contrary thereto, or in any degree infringe it.—*Next* by a multitude of subsequent corroborating statutes (Sir Edward Coke reckons thirty-two), from the FIRST EDWARD to HENRY IV.—*Then*, after a long interval, by the *petition of right*; which was a *parliamentary declaration of the liberties of the people*, assented to by King CHARLES I. in the beginning of his reign.—Which was closely *followed* by the still more ample concessions made by that unhappy prince to his parliament, before the fatal rupture between them; and by the many salutary laws, particularly the *habeas corpus* act, passed under CHARLES II.—To these *succeeded the bill of rights*, or declaration delivered by the *lords and commons* to the PRINCE and PRINCESS OF ORANGE, 13th of February, 1688; and *afterwards enacted in parliament*, when they became king and queen: which declaration concludes in these remarkable words: “*and they do claim, demand, and insist upon, all and singular the premises, as their undoubted rights and liberties.*”—And the act of parliament itself recognises “*all and singular the rights and liberties asserted and claimed in the said declaration to be the true, ancient, and indubitable rights of the people of this kingdom.*”—*Lastly*, these liberties

erties were again asserted at the commencement of the present century, in the *act of settlement*, whereby the crown was limited to his present Majesty's illustrious house: and some new provisions were added, at the same fortunate era, for better securing our *religion, laws, and liberties*; which the statute declares to be "*the birth-right of the people of England*," according to the ancient doctrine of the common law.

Thus much for the *declaration* of our *rights and liberties*.—The rights themselves, thus defined by these several statutes, consist in a number of private immunities; which will appear, from what has been premised, to be indeed no other, than either *that residuum of natural liberty, which is not required by the laws of society to be sacrificed to public convenience*; or else those civil privileges, which society hath engaged to provide, in *lieu* of the natural liberties so given up by individuals.—These therefore were formerly, either by inheritance or purchase, the rights of all mankind; but, in most other countries of the world, being now more or less debased and destroyed, they at present may be said to remain, in a peculiar and emphatical manner, *the rights of the people of Britain*.—And these may be reduced to *three principal or primary articles*; THE RIGHT OF PERSONAL

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SECURITY,

SECURITY, THE RIGHT OF PERSONAL LIBERTY, AND THE RIGHT OF PRIVATE PROPERTY: because, as there is no other known method of compulsion, or of abridging man's natural free-will, but by an infringement or diminution of one or other of these important rights, the preservation of these inviolate may justly be said to include the preservation of our civil immunities in their largest and most extensive sense.

In vain, however, would these rights be declared, ascertained, and protected by the *dead letter of the law*, if the constitution had provided *no other method* to secure their actual enjoyment.—It has therefore established certain other *auxiliary subordinate rights* of the subject, which *serve* principally as barriers to *protect* and *maintain inviolate* the *three great and primary rights*, of *personal security, personal liberty, and private property*.—These are,

1. *The constitution, powers, and privileges of parliament.*

2. *The limitation of the king's prerogative, by bounds so certain and notorious, that it is impossible he should exceed them without the consent of the people.—The former of these keeps the legislative power in due health and vigour, so as to make it improbable that laws should*

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be enacted destructive of general liberty: the latter is a guard upon the executive power, by restraining it from acting either beyond or in contradiction to the laws that are framed and established by the other.

3. A third subordinate right of every Briton is that of applying to the courts of justice for *redress of injuries*. Since the law is, in this realm, *the supreme arbiter of every man's life, liberty, and property*, courts of justice must at all times be open to the subject, and the law be duly administered therein.—The emphatical words of *magna charta*, spoken in the person of the king, who in judgment of law (says Sir Edward Coke) is ever present and repeating them in all his courts, are these: *Nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam*; “and therefore every subject (continues the same learned author), for injury done to him *in bonis, in terris, vel persona*, by any other subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of the law, and have justice and right for the injury done to him, *freely without sale, fully without any denial, and speedily without delay*.”—It were endless to enumerate all the *affirmative* acts of parliament, wherein *justice* is directed to be done *according to the law of the land*: and what that law is, every subject

knows, or may know if he pleases; for *it depends not upon the arbitrary will of any judge; but is permanent, fixed, and unchangeable, unless by authority of parliament.*—

We shall however just mention a few *negative* statutes, whereby abuses, perversions, or delays of justice, especially by the prerogative, are restrained.—It is ordained by *magna charta*, that no freeman shall be outlawed, that is, put out of the protection and benefit of the laws, but according to the law of the land.—By 2 Edw. III. c. 8. and 11 Ric. II. c. 10, it is enacted, *that no commands or letters shall be sent under the great seal, or the little seal, the signet or privy seal, in disturbance of the law, or to disturb or delay common right: and, though such commandments should come, the judges shall not cease to do right: which is also made a part of their oath by statute* 18 Edw. III. ft. 4.—And by 1 W. & M. ft. 2, c. 2, it is declared, that the pretended power of suspending or dispensing with laws, or the execution of laws, by regal authority without consent of parliament, is illegal.

Not only the substantial part, or judicial decisions, of the law, but also the *formal part*, or *method of proceeding*, cannot be altered but by parliament: for, if once those outworks were demolished, there would be an in-

let to all manner of innovation in the body of the law itself.—The king, it is true, may erect new courts of justice; but then they must proceed according to the old established forms of the common law.—For which reason it is declared in the statute of 16 Car. I. c. 10, upon the dissolution of the court of star-chamber, *that neither his majesty, nor his privy council, have any jurisdiction, power, or authority, by English bill, petition, articles, libel (which were the course of proceeding in the star-chamber, borrowed from the civil law), or by any other arbitrary way whatsoever, to examine, or draw into question, determine, or dispose of the lands or goods of any subjects of this kingdom; but that the same ought to be tried and determined in the ordinary courts of justice, and by* COURSE OF LAW.

4. If there should happen any uncommon injury, or infringement of the rights before-mentioned, which the ordinary course of law is too deficient to reach, there still remains a fourth subordinate right, appertaining to every individual, namely, *the right of petitioning* the king, or either house of parliament, for the redress of grievances.—In Russia we are told, that the Czar Peter established a law, that no subject might petition the throne till he had first petitioned two different ministers of state.

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In case he obtained justice from neither, he might then present a third petition to the prince; *but upon pain of death*, if found to be in the wrong.—The consequence of which was, that no one dared to offer such third petition; and grievances seldom falling under the notice of the sovereign, he had little opportunity to redress them.—The *restrictions*, for some there are, which are laid upon petitioning in Britain, are of a nature *extremely different*; and while they promote *the spirit of peace*, they are *no check* upon that of *liberty*.—Care only must be taken, lest, under the pretence of petitioning, the subject be guilty of any riot or tumult; as happened in the opening of the memorable parliament in 1640; and, to prevent this, it is provided by the statute 13 Car. II. ft. 1, c. 5, that *no petition* to the king, or either house of parliament, for any alteration in church or state, *shall be signed by above twenty persons*, unless the matter thereof be approved by three justices of the peace, or the major part of the grand jury, in the country; and in London, by the lord mayor, aldermen, and common-council; *nor shall any petition be presented by more than ten persons at a time*.—But under these regulations, it is declared by the statute 1 W. & M. ft. 2, c. 2, that the subject hath a *right to petition*; and that all commitments

mitments and prosecutions for such petitioning are illegal.

5. The fifth and last auxiliary right of the subject, that we shall at present mention, is that of having *arms for their defence*, suitable to their condition and degree, and such as are allowed by law.—Which is also declared by the same statute, 1 W. & M. st. 2, c. 2, and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

In these several articles consist the *rights*, or, as they are frequently termed, *the liberties of Britons*: liberties more generally *talked of*, than thoroughly *understood*; and yet highly *necessary* to be perfectly *known* and *considered* by every man of rank or property, lest his *ignorance* of the points whereon they are founded should hurry him into *faction* and *licentiousness* on the one hand, or a *pusillanimous indifference* and *criminal submission* on the other.—And we have seen that these rights consist, primarily, in the free enjoyment of PERSONAL SECURITY, of PERSONAL LIBERTY, and of PRIVATE PROPERTY.—*So long as these remain inviolate, the subject is perfectly free*; for every species of compulsive tyranny
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and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed.—*To preserve these from violation, it is necessary that the constitution of parliaments be supported in its full vigour; and limits, certainly known, be set to the royal prerogative.—And lastly, to vindicate these rights, when actually violated or attacked, the subjects of Britain are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and lastly, to the right of having and using arms for self-preservation and defence.—And all these rights and liberties it is our birthright to enjoy entire; unless where the laws of our country have laid them under necessary restraints; restraints in themselves so gentle and moderate, as will appear, upon farther inquiry, that no man of sense or probity would wish to see them slackened.—For all of us have it in our choice to do every thing that a good man would desire to do; and are restrained from nothing, but what would be pernicious either to ourselves or our fellow citizens.—So THAT THIS REVIEW OF OUR SITUATION MAY FULLY JUSTIFY THE OBSERVATION OF A LEARNED FRENCH AUTHOR, WHO INDEED GENERALLY BOTH THOUGHT*

AND

AND WROTE IN THE SPIRIT OF GENUINE FREEDOM;
 AND WHO HATH NOT SCRUPLED TO PROFESS, EVEN
 IN THE VERY BOSOM OF HIS NATIVE COUNTRY, THAT
 THE BRITISH IS THE ONLY NATION IN THE WORLD,
 WHERE POLITICAL OR CIVIL LIBERTY IS THE DI-
 RECT END OF ITS CONSTITUTION^a.

^a Blackstone.

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S E C T. II.

ON THE LIBERTY OF THE PRESS.

THE *liberty of the press*, however, so essential to the nature of a free state, consists not in *freedom from censure* for any *criminal matter* that may be published, but in laying *no previous restraints* upon publications.—*Every freeman has undoubtedly a right to lay what sentiments he pleases before the public*; to forbid this, is to destroy the freedom of the press: but if he publishes what is *improper, mischievous, or illegal*, he must take the consequence of his own temerity.—To subject the press to the restrictive power of a *licenser*, is to subject all freedom of sentiment to the *prejudices of one man*, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government.—BUT TO PUNISH (AS THE LAW DOES AT PRESENT) ANY DANGEROUS OR OFFENSIVE WRITINGS WHICH, WHEN PUBLISHED, SHALL, ON A FAIR AND IMPARTIAL TRIAL, BE ADJUDGED OF A PERNICIOUS TENDENCY,

IS NECESSARY FOR THE PRESERVATION OF PEACE AND GOOD ORDER, OF GOVERNMENT AND RELIGION, THE ONLY SOLID FOUNDATIONS OF CIVIL LIBERTY.—Thus the will of individuals is still left free; the *abuse* only of that *free-will* is the object of legal punishment.—Neither is any restraint hereby laid upon freedom of thought or inquiry; liberty of private sentiment is still left; the disseminating or making public of *bad sentiments*, destructive of the ends of society, is the crime which society corrects.—*A man (says a fine writer on the subject) may be allowed to keep poisons in his closet, but not publicly to vend them as cordials.*—And to this we may add, that the only plausible argument heretofore used for restraining the *just freedom* of the press, “that it was necessary to prevent the daily abuse of it,” will entirely lose its force, when it is shewn (by a reasonable exertion of the laws) that the press cannot be abused to any *bad purpose* without incurring a suitable punishment: whereas it can never be used to any *good one* when under the controul of an inspector.—*So true will it be found, that to censure the licentiousness, is to maintain the liberty of the press^a.*

^a Blackstone.

FINIS.



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PART II.

ON

A REFORM

IN

PARLIAMENT,

AND ITS

PROBABLE CONSEQUENCES.



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THE evils of a pure Republic are dissensions, tumults, factions; the attempts of powerful citizens to possess themselves of the empire; the confusion, rage, and clamour, which are the inevitable consequences of assembling multitudes, and of propounding questions of state to the discussion of the people; the delay and disclosure of public councils and designs; and the imbecility of measures retarded by the necessity of obtaining the consent of numbers; lastly, the excessive rancour among the different orders of the community. In the most shining period of the Roman history, says HUME, the horrid practice of poisoning was so common from party spirit, that, according to LIVY, during part of a season, a prætor punished capitally, in Italy, for this single crime, above 3000 persons; and in the short space of sixty years, according to the same historian, there perished in the republics of Greece for political opinions above 100,000 persons. The numbers that have perished in France by the guillotine have not as yet been ascertained!

OF
A REFORM IN PARLIAMENT.

THE Government of England, which has been sometimes called a mixed government, sometimes a limited monarchy, is formed by a combination of the three regular species of government; the monarchy, residing in the King; the aristocracy, in the House of Lords; and the republic being represented by the House of Commons. The perfection intended by such a scheme of government is, to unite the advantages of the several simple forms, and to exclude the inconveniences. To what degree this purpose is attained or attainable in the British constitution; wherein it is lost sight of or neglected; and by what means it may in any part be promoted with better success, the reader will be enabled to judge, by a separate recollection of these advantages and inconveniencies, as enumerated in the *POLITICIAN'S CREED* * (Part I. on the different Forms of Govern-

* These three Numbers are Extracts from that inestimable Work.

ment), and a distinct application of each to the political condition of this country. We will present our remarks upon the subject in a brief account of the expedients by which the British constitution provides,

1st, FOR THE INTEREST OF ITS SUBJECTS.

2dly, FOR ITS OWN PRESERVATION.

The contrivances for the first of these purposes are the following :

In order to promote the establishment of salutary laws, every citizen of the state is capable of becoming a member of the senate ; and every senator possesses the right of propounding to the deliberation of the legislature whatever law he pleases.

Every district of the empire enjoys the privilege of choosing representatives, informed of the interests and circumstances and desires of their constituents, and entitled by their situation to communicate that information to the national council. The meanest subject has some one whom he can call upon to bring forward his complaints and requests to public attention.

By annexing the right of voting for members of the House of Commons to different qualifications in different places, each order and profession of men in the community become virtually represented ; that is, men of all
orders

orders and professions, statesmen, courtiers, country gentlemen, lawyers, merchants, manufacturers, soldiers, sailors, interested in the prosperity, and experienced in the occupation of their respective professions, obtain seats in parliament.

The elections, at the same time, are so connected with the influence of landed property as to afford a certainty that a considerable number of men of great estates will be returned to parliament; and are also so modified, that men the most eminent and successful in their respective professions, are the most likely, by their riches, or the weight of their stations, to prevail in these competitions.

The number, fortune, and quality of the members; the variety of interests and characters among them; above all, the temporary duration of their power, and the change of men which every new election produces, are so many securities to the public, as well against the subjection of their judgments to any external dictation, as against the formation of a junto in their own body, sufficiently powerful to govern their decisions.

The representatives are so intermixed with the constituents, and the constituents with the rest of the people, that they cannot, without a partiality too flagrant to be

endured, impose any burden upon the subject, in which they do not share themselves; nor scarcely can they adopt an advantageous regulation, in which their own interests will not participate of the advantage.

The proceedings and debates of parliament, and the parliamentary conduct of each representative, are known by the people at large.

The representative is so far dependent upon the constitution, and political importance upon public favour, that a member of parliament cannot more effectually recommend himself to eminence and advancement in the state, than by contriving and patronising laws of public utility.

When intelligence of the condition, wants, and occasions of the people, is thus collected from every quarter, when such a variety of invention, and so many understandings are set at work upon the subject, it may be presumed, that the most eligible, expedient, remedy, or improvement, will occur to some one or other; and when a wise counsel, or beneficial regulation, is once suggested, it may be expected, from the disposition of an assembly so constituted as the British House of Commons is, that it cannot fail of receiving the approbation of a majority.

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To prevent those destructive contentions for the supreme power, which are sure to take place, where the members of the state do not live under an acknowledged head, and a known rule of succession; to preserve the people in tranquillity at home, by a speedy and vigorous execution of the laws; to protect their interest abroad, by strength and energy in military operations, by those advantages of decision, secrecy, and dispatch, which belong to the resolutions of monarchical councils;—for these purposes, the constitution has committed the executive government to the administration and limited authority of an hereditary King.

In the defence of the empire; in the maintenance of its power, dignity, and privileges, with foreign nations; in the advancement of its trade by treaties and conventions; and in the providing for the general administration of municipal justice, by a proper choice and appointment of magistrates, the inclination of the king and of the people usually coincide: in this part, therefore, of the regal office, the constitution entrusts the prerogative with ample powers.

The dangers principally to be apprehended from regal government, relate to the two articles of taxation and punishment.

punishment. In every form of government, from which the people are excluded, it is the interest of the governors to get as much, and of the governed to give as little, as they can: the power also of punishment, in the hands of an arbitrary prince, oftentimes become an engine of extortion, jealousy, and revenge. Wisely, therefore, hath the British constitution guarded the safety of the people, in these two points, by the most studious precautions.

Upon that of taxation, every law, which, by the remotest construction, may be deemed to levy money upon the property of the subject, must originate, that is, must first be proposed and assented to, in the House of Commons: by which regulation, accompanying the weight which that assembly possesses in all its functions, the levying of taxes is almost exclusively reserved to the popular part of the constitution, who, it is presumed, will not tax themselves, nor their fellow subjects, without being first convinced of the necessity of the aids which they grant.

The application also of the public supplies is watched with the same circumspection as the assessment. Many taxes are annual; the produce of others is mortgaged,

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or appropriated to specific services; the expenditure of all of them is accounted for in the House of Commons; as computations of the charge or the purpose for which they are wanted are previously submitted to the same tribunal.

In the infliction of punishment, the power of the crown, and of the magistrate appointed by the crown, is confirmed by the most precise limitations: the guilt of the offender must be pronounced by twelve men of his own order, indifferently chosen out of the county where the offence was committed: the punishment, or the limits to which the punishment may be extended, are ascertained and affixed to the crime, by laws which know not the person of the criminal.

And whereas, arbitrary or clandestine confinement is the injury most to be dreaded from the strong hand of the executive government, because it deprives the prisoner at once of protection and defence, and delivers him into the power, and to the malicious or interested designs of his enemies; the constitution has provided against this danger with extreme solicitude. The ancient writ of habeas corpus, the habeas corpus act of Charles the Second, and the practice and determinations of our sovereign courts of justice founded upon these laws, afford

ford a complete remedy for every conceivable case of illegal imprisonment*.

Treason being that charge, under colour of which the destruction of an obnoxious individual is often fought; and government being at all times more immediately a party in the prosecution; the law, beside the general care with which it watches over the safety of the accused, in this case, sensible of the unequal contest in which the subject is engaged, has assisted his defence with extraordinary indulgencies. By two statutes, enacted since the

* Upon complaint in writing by, or on behalf of, any person in confinement, to any of the four courts of Westminster Hall, in term time, or to the Lord Chancellor, or one of the Judges, in the vacation; and upon a probable reason being suggested to question the legality of the detention, a writ is issued, to the person in whose custody the complainant is alledged to be, commanding him within a certain limited and short time to produce the body of the prisoner, and the authority under which he is detained. Upon the return of the writ, strict and instantaneous obedience to which is enforced by very severe penalties, if no lawful cause of imprisonment appear, the court or judge, before whom the prisoner is brought, is authorized and bound to discharge him; even though he may have been committed by a secretary, or other high officer of state, by the privy council, or by the king in person: so that no subject of this realm can be held in confinement, by any power, or under any pretence whatever, provided he can find means to convey his complaint to one of the four courts of Westminster Hall, or during their recess to any of the judges of the same, unless all these several tribunals agree in determining his imprisonment to be legal. He may make application to them, in succession; and if one out of the number be found, who thinks the prisoner entitled to his liberty, that one possesses authority to restore it to him,

revolution,

revolution, every person indicted for high treason shall have a copy of his indictment, a list of the witnesses to be produced, and of the jury impannelled, delivered to him ten days before the trial; he is also permitted to make his defence by counsel; privileges which are not allowed to the prisoner in a trial for any other crime: and what is of more importance to the party than all the rest, the testimony of two witnesses, at least, is required to convict a person of treason; whereas, one positive witness is sufficient in almost every other species of accusation.

We proceed, in the second place, to enquire in what manner the constitution has provided for its own preservation; that is, in what manner each part of the legislature is secured in the exercise of the powers assigned to it, from the encroachment of the other parts. This security is sometimes called the balance of the constitution; and the political equilibrium, which this phrase denotes, consists in two contrivances,—a balance of power, and a balance of interest. By a balance of power is meant, that there is no power possessed by one part of the legislature, the abuse or excess of which is not checked by some antagonist power residing in another part. Thus the power of the two houses of parliament to frame laws

is checked by the king's negative ; that if laws subversive of real government should obtain the consent of parliament, the reigning prince, by interposing his prerogative, may save the necessary rights and authority of his station. On the other hand, the arbitrary application of this negative is checked by the privilege which parliament possesses, of refusing supplies of money to the exigencies of the king's administration. The constitutional maxim, that the king can do no wrong, is balanced by another maxim, not less constitutional, that the illegal commands of the king do not justify those who assist or concur in carrying them into execution ; and by a second rule, subsidiary to this, that the acts of the crown acquire not any legal force, until authenticated by the subscription of some of its great officers. The wisdom of this contrivance is worthy of observation. As the king could not be punished, without a civil war, the constitution exempts his person from trial or account ; but, lest this impunity should encourage a licentious exercise of dominion, various obstacles are opposed to the private will of the sovereign, when directed to illegal objects. The pleasure of the crown must be announced with certain solemnities, and attended by certain officers of state. In some cases, the royal order must be signified by a secretary

cretary of state; in others, it must pass under the privy seal, and in many, under the great seal. And when the king's command is regularly published, no mischief can be achieved by it, without the ministry and compliance of those to whom it is directed. Now all who either concur in an illegal order, by authenticating its publication with their seal or subscription, or who in any manner assist in carrying it into execution, subject themselves to prosecution and punishment, for the part they have taken; and are not permitted to plead or produce the command of the king, in justification of their obedience. But farther; the power of the crown to direct the military force of the kingdom, is balanced by the annual necessity of resorting to parliament for the maintenance and government of that force. The power of the king to declare war is checked by the privilege of the House of Commons to grant or withhold the supplies by which the war must be carried on. The king's choice of his ministers is controlled by the obligation he is under of appointing those men to offices in the state, who are found capable of managing the affairs of his government with the two houses of parliament. Which consideration imposes such a necessity upon the crown, as hath in a great measure subdued the idea of favouri-

tism; infomuch, that it is become no uncommon spectacle in this country, to see men promoted by the king to the highest offices, and richest preferments, which he has in his power to bestow, who have been distinguished by their opposition to his personal inclinations.

By the balance of interest, which accompanies and gives efficacy to the balance of power, is meant this, that the respective interests of the three estates of the empire are so disposed and adjusted, that whichever of the three shall attempt any encroachment, the other two will unite in resisting it. If the king should endeavour to extend his authority, by contracting the power and privileges of the Commons, the House of Lords would see their own dignity endangered by every advance which the crown made to independency upon the resolutions of parliament. The admission of arbitrary power is no less formidable to the grandeur of the aristocracy, than it is fatal to the liberty of the republic; that is, it would reduce the nobility from the hereditary share they possess in the national councils, in which their real greatness consists, to the being made a part of the empty pageantry of a despotic court. On the other hand, if the House of Commons should intrench upon the distinct

tinct province, or usurp the established prerogative of the crown, the House of Lords would receive an instant alarm from every new stretch of popular power. In every contest in which the king may be engaged with the representative body, in defence of his established share of authority, he will find a sure ally in the collective power of the nobility. An attachment to the monarchy, from which they derive their own distinction; the allurements of a court, in the habits and with the sentiments of which they have been brought up; their hatred of equality, and of all levelling pretensions, which may ultimately affect the privileges, or even the existence of their order; in short, every principle and every prejudice which are wont to actuate human conduct, will determine their choice, to the side and support of the crown. Lastly, if the nobles themselves should attempt to revive the superiorities, which their ancestors exercised under the feudal constitution, the king and the people would alike remember, how the one had been insulted, and the other enslaved, by that barbarous tyranny. They would forget the natural opposition of their views and inclinations, when they saw themselves threatened with the return
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of a domination, which was odious and intolerable to both *.

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* The reader will have observed, that in describing the British constitution little notice has been taken of the House of Lords. The proper use and design of this part of the constitution are the following : first, to enable the king, by his right of bestowing the peerage, to reward the servants of the public in a manner most grateful to them, and at a small expence to the nation ; secondly, to fortify the power and to secure the stability of regal government, by an order of men naturally allied to its interests ; and, thirdly, to answer a purpose, which though of superior importance to the other two, does not occur so readily to our observation ; namely, to stem the progress of popular fury. Large bodies of men are subject to sudden phrensies. Opinions are sometimes circulated amongst a multitude without proof or examination, acquiring confidence and reputation merely by being repeated from one to another ; and passions founded upon these opinions diffusing themselves with a rapidity which can neither be accounted for nor resisted, may agitate a country with the most violent commotions. Now the only way to stop the fermentation is to divide the mass ; that is, to erect different orders in the community, with separate prejudices and interests. And this may occasionally become the use of an hereditary nobility, invested with a share of legislation. Averse to those prejudices which actuate the minds of the vulgar ; accustomed to condemn the clamour of the populace ; disdainful to receive laws and opinions from their inferiors in rank, they will oppose resolutions which are founded in the folly and violence of the lower part of the community. Was the voice of the people always dictated by reflection ; did every man, or even one man in a hundred, think for himself, or actually consider the measure he was about to approve or censure ; or even were the common people tolerably steadfast in the judgment which they formed, I should hold the interference of a superior order, not only superfluous, but wrong ; for, when every thing is allowed to difference of rank and education, which the actual state of these advantages deserves, that, after all, is most likely to be right and expedient, which appears to be so to the separate judgment and decision of a great majority of the nation ; at least, that, in general,

There is nothing, in the British constitution, so remarkable, as the irregularity of the popular representation. The House of Commons consists of five hundred and forty-eight members, of whom two hundred are elected by seven thousand constituents: so that a majority of these seven thousand, without any reasonable title to superior weight or influence in the state, may, under

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neral, is right for them, which is agreeable to their fixed opinion and desires. But when we observe what is urged as the public opinion, to be, in truth, the opinion only, or perhaps the feigned professions of a few crafty leaders; that the numbers who join in the cry, serve only to swell and multiply the sound, without any accession of judgment, or exercise of understanding; and that oftentimes the wisest councils have been thus overborne by tumult and uproar,—we may conceive occasions to arise, in which the commonwealth may be saved by the reluctance of the nobility to adopt the caprices, or to yield to the vehemence of the common people. In expecting this advantage from an order of nobles, we do not suppose the nobility to be more unprejudiced than others; we only suppose that their prejudices will be different from, and may occasionally counteract, those of others.

The admission of a small number of ecclesiastics into the House of Lords is but an equitable compensation to the clergy for the exclusion of their order from the House of Commons. They are a set of men considerable by their number and property, as well as by their influence, and the duties of their station; yet, whilst every other profession has those amongst the national representatives, who, being conversant in the same occupation, are able to state, and naturally disposed to support, the rights and interests of the class to which they belong, the clergy alone are deprived of this advantage. Which hardship is made up to them by introducing the prelacy into parliament; and if bishops, from gratitude or expectation, be more obsequious to the will of the crown, than those who possess great temporal inheritances, they are properly inserted into that part of the constitution, from which much or frequent resistance to the measures of government is not expected.

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certain circumstances, decide a question against the opinion of as many millions. Or, to place the same object in another point of view; if my estate be situated in one county of the kingdom, I possess the ten thousandth part of a single representative; if in another, the thousandth; if in a particular district, I may be one in twenty who choose two representatives; if in a still more favoured spot, I may enjoy the right of appointing two myself. If I have been born, or dwell, or have served an apprenticeship in one town, I am represented in the national assembly by two deputies, in the choice of whom I exercise an actual and sensible share of power; if accident has thrown my birth, or habitation, or service, into another town, I have no representative at all, nor more power or concern in the election of those who make the laws, by which I am governed, than if I was a subject of the Grand Signior—and this partiality subsists without any pretence whatever of merit or of propriety, to justify the preference of one place to another. Or, thirdly, to describe the state of national representation as it exists in reality, it may be affirmed, I believe, with truth, that about one half of the House of Commons obtain their seats in that assembly by the election of the people, the other half by purchase,

chafe, or by the nomination of single proprietors of great estates.

This is a flagrant incongruity in the constitution ; but it is one of those objections which strike most forcibly at first. The effect of all reasoning upon the subject will diminish the first impresson : on which account it deserves the more attentive examination, that we may be assured, before we adventure upon a reformation, that the magnitude of the evil justifies the danger of the experiment.

In the few remarks that follow, we would be understood, in the first place, to decline all conference with those who wish to alter the form of government of these kingdoms. The reformers with whom we have to do, are they, who, while they change this part of the system, would retain the rest. If any Englishman expect more happiness to his country under a *republic*, he may very consistently recommend a new modelling of elections to parliament ; because, if the King and House of Lords were laid aside, the present disproportionate representation would produce nothing but a confused and ill-digested oligarchy. In like manner we wave a controversy with those writers who insist upon representa-

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tion as a natural right * : we consider it so far only as a right at all, as it conduces to public utility ; that is, as it contributes to the establishment of good laws, or as it secures to the people the just administration of these laws. These effects depend upon the disposition and abilities of the national counsellors. Wherefore, if men the most likely by their qualifications to know and to promote the public interest be actually returned to parliament, it signifies little who return them. If the properest persons be elected, what matter it by whom they are elected? At least, no prudent statesman would subvert long established or even settled rules of representation, without a prospect of procuring wiser or better representatives.

This then being well observed, let us, before we seek to obtain any thing more, consider duly what we already have. We have a House of Commons composed of five hundred and forty-eight members, in which number are found the most considerable landholders and merchants

* If this right be natural, no doubt it must be equal, and the right, we may add, of one sex, as well as of the other. Whereas every plan of representation we have heard of begins by excluding the votes of women : thus cutting off, at a single stroke, one half of the public from a right which is asserted to be inherent in all ; a right too, as some represent it, not only universal, but unalienable and indefeasible.

of the kingdom; the heads of the army, the navy, and the law; the occupiers of great offices in the state; together with many private individuals, eminent by their knowledge, eloquence, or activity. Now, if the country be not safe in such hands, in whose may it confide its interests? If such a number of such men be liable to the influence of corrupt motives, what assembly of men will be secure from the same danger? Does any new scheme of representation promise to collect together more wisdom, or to produce firmer integrity?

In this view of the subject, and attending not to ideas of order and proportion (of which many minds are much enamoured), but to effects alone, we may discover just excuses for those parts of the present representation which appear to a hasty observer most exceptionable and absurd.

It should be remembered as a maxim extremely applicable to this subject, that no order or assembly of men whatever can long maintain their place and authority in a mixed government, of which the members do not individually possess a respectable share of personal importance. Now, whatever may be the defects of the present arrangement, it infallibly secures a great weight of property to the House of Commons, by rendering many seats in that house accessible to men of large fortunes,

and to such men alone. By which means those characters are engaged in the defence of the separate rights and interests of this branch of the legislature, that are best able to support its claims. The constitution of most of the small boroughs, especially the burgage tenure, contributes, though undesignedly, to the same effect; for the appointment of the representatives we find commonly annexed to certain great inheritances. Elections purely popular are in this respect uncertain: in times of tranquillity, the natural ascendancy of wealth will prevail; but when the minds of men are inflamed by political dissensions, this influence often yields to more impetuous motives.

The variety of tenures and qualifications, upon which the right of voting is founded, appears to me a recommendation of the mode which now subsists, as it tends to introduce into parliament a corresponding mixture of characters and professions. It has been long observed that conspicuous abilities are most frequently found with the representatives of small boroughs. And this is nothing more than what the laws of human conduct might teach us to expect: when such boroughs are set to sale, those men are likely to become purchasers who are able to make the best display of their talents: and when a
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seat is not sold, but given by the opulent proprietor of a burgage tenure, the patron finds his own interest consulted, by the reputation and abilities of the member whom he nominates.

If certain of the nobility hold the appointment of some part of the House of Commons, it serves to maintain that alliance between the two branches of the legislature, which no good citizen would wish to see dissevered: it helps to keep the government of the country in the House of Commons, in which, it would not perhaps long continue to reside, if so powerful and wealthy a part of the nation as the peerage compose, were excluded from all share and interest in its constitution.

If there be a few boroughs so circumstanced as to lie at the disposal of the crown, whilst the number of such is known and small, they may be tolerated with little danger. For where would be the impropriety, or the inconveniency, if the king at once should nominate a limited number of his servants to seats in parliament; or, what is the same thing, if seats in parliament were annexed to the possession of certain of the most efficient and responsible offices of the state?

The present representation, after all these deductions, and under the confusion in which it confessedly lies, is
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still in such a degree popular ; or rather the representatives are so connected with the mass of the community, by a society of interests and passions, that the will of the people, when it is determined, permanent, and general, almost always at length prevails.

Upon the whole, in the several plans which have been suggested, of an equal or a reformed representation, it will be difficult to discover any proposal that has a tendency to throw more of the business of the nation into the House of Commons, or to collect a set of men more fit to transact that business, or in general more interested in the national happiness and prosperity.

One consequence, however, may be expected from these projects, namely, “ less flexibility to the influence of the crown.” And since the diminution of this influence, is the secret, and perhaps the sole design of the various schemes that have been produced, whether for regulating the elections, contracting the duration, or for purifying the constitution of parliament by the exclusion of placemen and pensioners ; it is obvious to remark, that the more apt and natural, as well as the more safe and quiet way of attaining the same end, would be by a direct reduction of the patronage of the crown, which might be effected to a certain extent without hazarding farther

farther consequences. Superfluous and exorbitant emoluments of office may not only be suppressed for the present; but provisions of law be devised, which should for the future restrain within certain limits, the number and value of the offices in the donation of the king.

But whilst we dispute concerning different schemes of reformation, all directed to the same end, a previous doubt occurs in the debate, whether the end itself be good, or safe—whether the influence so loudly complained of can be destroyed, or even much diminished, without danger to the state.

Whilst the zeal of some men beholds this influence with a jealousy, which nothing but its entire abolition can appease, many wise and virtuous politicians deem a considerable portion of it to be as necessary a part of the British constitution, as any other ingredient in the composition—to be that, indeed, which gives cohesion and solidity to the whole. Were the measures of government, say they, opposed from nothing but principle, government ought to have nothing but the rectitude of its measures to support them; but since opposition springs from other motives, government must possess an influence to counteract these motives; to produce, not a bias
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of the passions, but a neutrality: it must have some weight to cast into the scale to set the balance even.

It is the nature of ambition always to press upon the boundaries which confine it. Licentiousness, faction, envy, impatience of control or inferiority; the secret pleasure of mortifying the great, or the hope of dispossessing them; a constant willingness to question and thwart whatever is dictated or even proposed by another; a disposition common to all bodies of men to extend the claims and authority of their order; above all, that love of power and of shewing it, which resides more or less in every human breast, and which, in popular assemblies, is inflamed, like every other passion, by communication and encroachment: these motives, added to private designs and resentments, cherished also by popular acclamation, and operating upon the great share of power already possessed by the House of Commons, might induce a majority, or at least a large party of men in that assembly, to unite in endeavouring to draw to themselves the whole government of the state; or at least so to obstruct the conduct of public affairs, by a wanton and perverse opposition, as to render it impossible for the wisest statesman to carry forwards the business of the nation with success or satisfaction.

Some passages of our national history afford grounds for these apprehensions. Before the accession of James the First, or, at least, during the reigns of his three immediate predecessors, the government of England was a government by force ; that is, the king carried his measures in parliament by intimidation. A sense of personal danger kept the members of the House of Commons in subjection. A conjunction of fortunate causes delivered at last the parliament and nation from slavery. That overbearing system, which had declined in the hands of James, expired early in the reign of his son. After the restoration there succeeded in its place, and since the revolution has been methodically pursued, the more successful expedient of influence. Now we remember what passed between the loss of terror, and the establishment of influence. The transactions of *that interval*, whatever we may think of their occasion or effect, no friend of regal government would wish to see revived.

But the affairs of this kingdom afford a more recent attestation to the same doctrine. In the British colonies of North America, the late assemblies possessed much of the power and constitution of our House of Commons. The king and Government of Great Britain held no patronage in the country, which could create attachment

and influence sufficient to counteract that restless, arrogant spirit, which in popular assemblies, when left to itself, will never brook an authority, that checks and interferes with its own. To this cause, excited perhaps by some unseasonable provocations, we may attribute, as to their true and proper original, we will not say the misfortunes, but the changes that have taken place in the British empire. The admonition, which such examples suggest, will have its weight with those, who are content with the general frame of the English constitution; and who consider stability amongst the first perfections of any government.

We protest however against any construction, by which what is here said shall be attempted to be applied to the justification of *bribery*, or of any clandestine reward or solicitation whatever. The very secrecy of such negotiations confesses or begets a consciousness of guilt; which when the mind is once taught to endure without uneasiness, the character is prepared for every compliance. And there is the greater danger in these corrupt practices, as the extent of their operation is unlimited and unknown. Our apology relates solely to that influence, which results from the acceptance or expectation of public preferments.

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In political, above all other subjects, the arguments, or rather the conjectures on each side of a question, are often so equally poised, that the wisest judgments may be held in suspense. These I call subjects of indifference. But again, when the subject is not indifferent in itself, it will appear such to a great part of those to whom it is proposed, for want of information, or reflection, or experience, or of capacity to collect and weigh the reasons by which either side is supported. These are subjects of apparent indifference. This indifference occurs still more frequently in personal contests; in which we do not often discover any reason of public utility, for the preference of one competitor to another. These cases compose the province of influence; that is, the decision in these cases will inevitably be determined by influence of some sort or other. The only doubt is, what influence shall be admitted. If you remove the influence of the crown, it is only to make way for influence from a different quarter. If motives of expectation and gratitude be withdrawn, other motives will succeed in their place, acting probably in an opposite direction, but equally irrelative and external to the proper merits of the question. There exist, as we have seen, passions in the human heart, which will always make a strong party
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against the executive power of a mixed government. According as the disposition of parliament is friendly or adverse to the recommendation of the crown in matters which are really or apparently indifferent, as indifference hath been now explained, the business of empire will be transacted with ease and convenience, or embarrassed with endless contention and difficulty. Nor is it a conclusion founded in justice, or warranted by experience, that, because men are induced by views of interest to yield their consent to measures, concerning which their judgment decides nothing, they may be brought by the same influence, to act in deliberate opposition to knowledge and duty.

Whoever reviews the operations of government in this country since the revolution, will find few even of the most questionable measures of administration, about which the best instructed judgment might not have doubted at the time; but of which he may affirm with certainty, that they were indifferent to the greatest part of those who concurred in them. From the success or the facility, with which they who dealt out the patronage of the crown carried measures like these, we ought not to conclude, that a similar application of honours and emoluments would procure the consent of parlia-

ment to councils evidently *detrimental* to the common welfare.

Is there not, on the contrary, more reason to fear, that the prerogative, if deprived of influence, would not be long able to support itself? For when we reflect upon the power of the House of Commons to extort a compliance with its resolutions from the other parts of the legislature; or to put to death the constitution by a refusal of the annual grants of money, to the support of the necessary functions of government—when we reflect also, what motives there are, which in the vicissitudes of political interests and passions, may one day arm and point this power against the executive magistrate—when we attend to these considerations, we shall be led perhaps to acknowledge, that there is not more of paradox than of truth, in that important but much decried apophthegm, “that an independent parliament is incompatible with
“the existence of the monarchy.”



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PART III.

ON
POPULAR DISCONTENT,

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AND



THE DESTRUCTION

OF THE
ENGLISH CONSTITUTION.

To exclude *faction* from a free government is a very difficult task, if not altogether impracticable. In ancient history we read of continued *factions*, and the superior party butchering all of the opposite side who fell into their hands. A fourth, a third, perhaps near a half of the city was slaughtered, or expelled, at every contest, and the exiles always joined and stirred up the common enemy. The utmost energy of the nervous style of THUCYDIDES, and the copiousness and expression of the Greek language seems to sink under that historian, when he attempts to describe the disorders which arose from *factions* throughout all the *Grecian* republics. In these contests, says he, those who were the dullest and most stupid, and had the least foresight, commonly prevailed: for being conscious of this weakness, and dreading to be over-reached by those of greater penetration, they went to work heartily, without premeditation, by the sword and poniard, and thereby got the start of their antagonists, who were forming fine schemes and speeches for their destruction. APPIAN's history of the *Roman* civil wars contains the most frightful picture of massacres, proscriptions, and forfeitures, that ever was presented to the world. In such violent governments the disorder, diffidence, jealousy, and enmity, which prevailed, are not easy for us under our mixed form of government to imagine. When ALEXANDER ordered the exiles to be restored, they amounted to above 20,000 men, the remains of still greater slaughters and massacres. What an astonishing multitude in so narrow a country as ancient *Greece*! and what domestic confusion, jealousy, partiality, heart-burnings, must tear those cities, where factions were wrought up to such a degree of fury and despair!

HUME.

SECT. I.

ON POPULAR DISCONTENT.

THERE is inseparably annexed to our very nature and constitution, a certain unaccountable restlessness of mind, and thought, which makes us unsatisfied with what we at present possess and enjoy, and rave after something past or to come, which ever troubles, and corrupts, the pleasures of our senses, and of our imaginations, the enjoyments of our fortunes, or the best production of our reason, and thereby the content and happiness of our lives.

This is the true, natural, and common source of such personal dissatisfactions, such domestic complaints, and such popular discontents, as afflict not only our private lives, conditions, and fortunes, but even our civil states and governments, and thereby consummates the particular and general infelicity of mankind; which is enough complained of by all that consider it in common actions and passions of life, but much more in the fac-

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tions, seditions, convulsions, and fatal revolution that have so frequently, and in all ages, attended all, or most of the governments in the world.

This restless humour, so general and natural to mankind, is a weed that grows in all soils and under all climates, but seems to thrive most, and grow fastest in the best. From this original fountain issues those streams of faction, that with the course of time and accident, overflow the wisest constitutions of governments and laws, and many times make men treat the best princes and truest patriots, like the worst tyrants and most seditious disturbers of their country, and bring such men to scaffolds, that deserve statues, to violent and untimely deaths, that were worthy of the longest and the happiest lives. If such only as Phalaris and Agathocles, as Marius and Catiline, had fallen victims to faction, or to popular rage, we should have little to wonder or complain at, but we find the wisest, the best of men have been sacrificed to the same idol. Solon and Pythagoras have been allowed as such in their own and succeeding ages; and yet the one was banished and the other murdered by faction, which two ambitious men had raised in commonwealths, which those two wise and excellent men themselves had framed. Scipio
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and Hannibal, the greatest and most glorious captain of their own, or perhaps any other age, and the best servants of their respective commonwealths, were banished and disgraced by the factions of their countries: and to come nearer home, Barnevolt and De Wit in Holland, Sir Thomas Moore, and the Earl of Essex, and Sir Walter Raleigh, in England, men esteemed the most extraordinary of their time, fell all bloody sacrifices to the factions of their courts or their countries.

There is no theme so large and so easy, no discourse so common and so plausible, at the faults or corruptions of governments, the miscarriages or complaints of magistrates; none so easily received, and spread, even among good and well-meaning men, none so enviously raised, and employed so ill, nor turned to a worse or more disguised end. No government, no times were ever free from them, nor ever will be free, till all men are wise, good, and easily contented. No civil or political constitution can be perfect or secure, whilst they are composed of men, who are for the most part passionate, interested, unjust, or unthinking, generally and naturally restless, and unquiet; discon-

tented with the present, or what they have, raving after the future, or something they want, and thereby ever disposed and desirous to change.

Another cause of distempers in states, and discontents under all governments, is the unequal condition that must necessarily fall to the share of so many and such different men that compose them. In great multitudes, few in comparison are born to great titles or great estates; few can be called to public charges and employments of dignity, or power, and few by their industry and conduct arrive at great degrees of wealth and fortune; and every one speaks of the fair as his own market goes in it. All are easily satisfied with themselves, and their own merit, though they are not so with their fortune; and, when they see others in better condition whom they esteem less deserving, they lay it upon the ill constitution of things, the partiality or humour of princes, the negligence or corruption of ministers.

The common sort of people who have any leisure to think always find fault with the times, and some must have reason, for the merchant gains by peace, and the foldier by war; the shepherd by wet seasons, and the ploughman by dry: when the city fills, the country
grows

grows empty; and while trade increases in one place, it decays in another. In such variety and courses of life, men's designs and interests must be opposite to one another, and both cannot succeed alike: whether the winner laughs or no, the loser will complain, and rather than quarrel with himself, will abuse the dice, or those he plays with. When any body is angry, some one must be blamed; and those reasons which cannot be remedied, those accidents that could not be prevented, those miscarriages that no one could foresee, will be then laid upon the government, and whether right or wrong, will have the same effect of raising or increasing the common and popular discontents.

In all states there is one universal division, which is the separation of the innocent from the criminal; or between such as are in some measure contented with what they possess by inheritance, or what they expect from their own abilities, industry, or parsimony; and those who are dissatisfied with what they have, and not trusting to those innocent ways of acquiring more, must fall to others, and pass from just to unjust, from peaceable to violent.

The first desire safety, and to keep what they have; the second are content with dangers, in hopes to get
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what others legally possess: one loves the present state and government, and endeavours to secure it; the other desires to end this game, and shuffle for a new: one loves fixed laws, and the other an unsettled power; yet the last, when they have gained enough by factions and disorders, by rapine and violence, come then to change their principles with their fortunes, and grow friends to established order and fixed laws. So the Normans of old, when they had divided the spoils of the English lands and possessions, grew bold defenders of the common law of the land. So of latter days, it was observed, that Cromwell's officers in the army, who were the first for burning records, for levelling of lands, while they had none of their own; yet when afterwards they were grown rich and landed men, they fell into the praise of the English laws, and cried up the magna charta as our ancestors had done before with a much better grace.

Could we suppose a body politic framed perfect in its first conception or institution; yet, if the administration be ill, ignorant, or corrupt, too rigid, or too remiss, too negligent, or severe, these may justly occasion for the present some discontent. Yet this is an evil, to which all sublunary things are subject, not only by accident, but even by natural dispositions, and which can
hardly

hardly be altered. This it is however that makes the first and universal default of all governments; and this made the philosophers of old, instead of seeking or accepting the public magistracies or offices of their countries, employ their time and care to improve men's reasons, to temper their affections, to allay their passions, to discover the vanity, or the pride, and ambition, of riches, and power; believing the only way to make their countries happy and free, was to make men wise and good, just and reasonable. But as nature will be ever superior to art, so these excellent men have succeeded but little in their design, and left the world just as they found it, ever unquiet and unstable.

How can a prince always choose well such as he employs, when men's dispositions are so easily mistaken, and their abilities too? How deceitful are appearances? How false are men's professions? How hidden are their hearts? How disguised their principles? How uncertain their humours?

Many men are good and esteemed when they are private, ill-disposed and hated when in office; honest and contented when they are poor, covetous and violent when they grow rich: they are bold one day, and cautious another; active at one time of their lives, and
 lazy

lazy the rest ; sometimes pursue their ambition, and sometimes their pleasure ; nay, among soldiers, some are brave one day, and cowards another, as great captains have related on their own experience and observation. Gravity often passes for wisdom, wit for ability ; what men say for what they think, and boldness of talk, for boldness of heart. Nothing is so commonly mistaken as vulgar opinion ; and many men come out, when they come into great and public employments, the weakness of whose heads or hearts would never have been discovered, if they had kept within their private sphere of life.

Besides, princes cannot run into every corner of their dominions, to look out for persons fit for the service of the public : they cannot see far with their own eyes, nor hear with their ears ; and must for the most part do both with those of other men, or else choose among such smaller numbers as are most in their way ; and these are such, generally, as make their court, or give their attendance, in order to advance themselves to honours, to fortunes, to places, and employments ; and are usually the least worthy of them, and better servants to themselves than the government. The needy, the ambitious, the half-witted, the proud, the covetous, are
ever

ever restless to get into public employment, and many others that are uneasy or ill entertained at home. The forward, the busy, the bold, the sufficient, pursue their game with more passion, endeavour, application, and thereby often succeed where better men would fail. In the course of my observation I have found no talent of so much advantage among men, towards their growing great or rich, as a violent and restless passion; for whoever sets his heart and thoughts wholly upon some one thing must have very little wit, or very little luck, to fail. Yet all these cover their ends with most worthy pretences, and those noble sayings, "Men are not born for themselves, and must sacrifice their lives for the public, as well as their time and their health:" and those who think nothing less are so used to say such fine things, that such who truly believe them are almost ashamed to own it. In the mean time, the noble, the wise, the rich, the modest, those easy in their conditions or their minds, those who know most of the world and themselves, are not only careless, but often averse from entering into public charges or employments, unless upon the necessities of their country, the commands of their prince, or the instances of their friends. What is to be done in this case, when such as

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offer themselves, and pursue, are not worth having, and such as are most worthy will neither offer, nor perhaps accept.

When, upon this occasion, complaints and discontents are sown among well-meaning men, they are sure to be cultivated by others that are ill-intentioned and interested, and who cover their own ends under those of the public, and, by the good and service of the nation, mean nothing but their own. The practice begins of knaves and fools, of artificial and crafty men upon the simple and the good; these easily follow, and are caught, while the others lay the trains, and pursue a game, wherein they design no other share, than of toil and danger to their company, but the gain wholly to themselves. They blow up sparks wherever they find the stubble is dry: they find out miscarriages wherever they are, and forge them often where they are not; they find fault first with the persons in office, and then with the prince or state*; sometimes with the execution

* It is but a foolish wisdom, which is so carefully displayed, in undervaluing princes, and placing them on a level with the meanest of mankind. To be sure, an anatomist finds no more in the greatest monarch than in the lowest peasant or day-labourer; and a moralist may, perhaps, frequently find less. But what do all these reflections tend to? We, all of us, still retain these

prejudices

II

tion of laws, and at other times with the institutions, how ancient and sacred soever. They make alarms pass for actual dangers, and appearances for truth; represent misfortunes for faults, and mole-hills for mountains; and by the persuasion of the vulgar, and pretences of patriots, or lovers of their country, at the same time that they undermine the credit and authority of the government, they set up their own. This raises a faction between those subjects that would support government, and those that would ruin it; or rather between those that possess honours and advantages of it, and those that, under the pretence of *reforming*, design only or chiefly to change the hands it is in, and care little what becomes of the rest.

When this fire is kindled, both sides inflame it; all care of the public is laid aside, and nothing is pursued

prejudices in favour of birth and family; and neither in our serious occupations, nor most careless amusements, can we ever get intirely rid of them. A tragedy, that should represent the adventures of porters, would presently disgust us; but one that introduces kings and princes, acquires in our eyes an air of importance and dignity. Or should a man be able, by his superior wisdom, to get intirely above such prepossessions, he would soon, by means of the same wisdom, again bring himself down to them, for the sake of society, whose welfare he would perceive to be intimately connected with them. Far from endeavouring to deceive the people in this particular, he would cherish such sentiments of reverence to their princes, as requisite to preserve a due subordination in society.—HUME.

but the interest of the factious*; all regard of merit is lost in persons employed, and those only are chosen,

* Of all men, that distinguish themselves by memorable achievements, the first place of honour seems due to legislatures and founders of states, who transmit a system of laws and institutions to secure the peace, happiness, and liberty of future generations. The influence of useful inventions in the arts and sciences may, perhaps, extend farther than that of wise laws, whose effects are limited both in time and place; but the benefit arising from the former, is not so sensible as that which results from the latter. Speculative sciences do, indeed, improve the mind; but this advantage reaches only to a few persons, who have leisure to apply themselves to them. And as to practical arts, which increase the commodities and enjoyments of life, it is well known, that men's happiness consists not so much in an abundance of these, as in the peace and security with which they possess them; and those blessings can only be derived from good government. Not to mention, that general virtue and good morals in a state, which are so requisite to happiness, can never arise from the most refined precepts of philosophy, or even the severest injunctions of religion; but must proceed intirely from the virtuous education of youth, the effect of wise laws and institutions.

As much as legislators and founders of states ought to be honoured and respected among men, as much ought the *founders of sects and factions* to be detested and hated; because the influence of faction is directly contrary to that of laws. Factions subvert government, render laws impotent, and beget the fiercest animosities among men of the same nation, who ought to give mutual assistance and protection to each other. And what should render the founders of parties more odious is, the difficulty of extirpating these weeds, when once they have taken root in any state. They naturally propagate themselves for many centuries, and seldom end but by the total dissolution of that government, in which they are sown. They are, besides, plants which grow most plentifully in the richest soil; and though absolute governments be not intirely free from them, it must be confessed, that they rise more easily, and propagate themselves faster in free governments, where they always infect the legislature itself which alone could be able, by the steady application of rewards and punishments, to eradicate them.

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that are true to the party ; and the only talent required is, to be hot, to be heady, to be true to the side he is on. When these storms are raised, the wise and good are intirely laid aside, or retire of themselves, and leave the scene to such as are more active and eager to get upon the stage.

From these seeds grow popular commotions, and at last seditions, which so often end in some fatal periods of the best governments. I cannot leave this subject of popular discontents without reflecting and bewailing, how much and how often *our* country has been infested by them ; how they have ravaged and defaced the noblest island of the world, and which seems, from the happy situation, the temper of climate, the fertility of soil, the numbers and native courage of the inhabitants, to have been destined by God and nature, for the greatest happiness, or security at home, and to give laws, or balance at least, to all their neighbours abroad.

Upon a clear survey of these dispositions in mankind, and the condition of all governments, it seems much more reasonable to pity, than to envy the fortunes and dignities of princes ; and to lessen or excuse their venial faults, or at least their misfortunes, rather than to increase or make them worse by ill colours or representations.

tions. For as every prince should govern, as he would desire to be governed, if he were a subject, so every subject should obey, as he would desire to be obeyed, if he were a prince; and this moral duty, OF DOING AS YOU WOULD BE DONE BY, equally reaches and applies to the peasant as the crown*.

* Sir William Temple.

SECT.

SECT. II.

THE MOB.

THIS class of men can be brought to act in concert upon no other principles than those of a frantic enthusiasm and ungovernable fury ; their profound ignorance and deplorable credulity make them proper tools for any man who can inflame their passions, or alarm their superstition ; and as they have nothing to lose by the total dissolution of civil society, their rage may be easily directed against any victim which may be pointed out to them. They are altogether incapable of forming a rational judgment either upon the principles or the motives of their own conduct ; and whether the object for which they are to contend, be good or bad, the brutal arm of power is all the assistance they can afford for its accomplishment. To set in motion this inert mass, the eccentric vivacity of a madman is infinitely better calculated than the sober coolness of phlegmatic reason. They need only to be provoked and irritated ; for they never can in any other manner be called into
 4 action.

action. In the year 1780, they assembled at London to the number of 60,000, under the direction of Lord George Gordon, and carrying fire and rapine before them, were upon the point of giving the whole city of London to one undistinguished devastation and destruction: and this, because the parliament had mitigated the severity of a sanguinary and tyrannical law of persecution against the Roman Catholics. Should these people be taught that they have a right to do every thing, and that the titles of kings and nobles, and the emoluments of public offices, are all usurpations and robberies committed upon them, I believe it would not be difficult to rouse their passions, and to prepare them for every work of ruin and destruction. But, when they are once put in motion, they soon get beyond all restraint and controul. The rights of man, to life, liberty, and property, oppose but a feeble barrier to them; the beauteous face of nature, and the elegant refinements of art, the hoary head of wisdom, and the enchanting smile of beauty, are all equally liable to become obnoxious to them; and as all their power consists in destruction, whatever meets with their displeasure must be devoted to ruin. Could any thing but an imperious, overruling necessity justify any man, or body of men, for
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using a weapon like this to operate a revolution in government? Such indeed was the situation of the French National Assembly, when they directed the electric fluid of this popular frenzy against the ancient fabric of their monarchy. They justly thought that no price could purchase too dearly the fall of arbitrary power in an individual, but, perhaps, even they were not aware of all the consequences which might follow from committing the existence of the kingdom to the custody of a lawless and desperate rabble.

But do the people of England labour under such intolerable oppression, as would authorise any of their patriots* to employ an arm like this for their relief? Suppose sixty thousand men should again assemble round Westminster-hall, and with clubs and fire-brands for their sole arguments, should compel the parliament to alter the present form of government, what would be the probable consequences? Is it clear that so large a majority of the people of England have lost all their attachment to their constitution, as to insure an acquiescence in the measure throughout the kingdom? Is it certain that one quarter part of the people would obey

* Patriots, says Sir Robert Walpole, have a growth like mushrooms. It is but denying a place, or refusing an unreasonable demand, and up starts a patriot.

an act extorted by such violence as this? Would not all friends of the present government, with the armies at home and abroad, rather rally round the standard of the constitution, and would not their duty compel them to defend it with their lives and fortunes? If it should soon appear that they were decidedly the strongest party, would not the insurrection be extinguished in the blood of its leaders? If the parties should prove to be nearly equal, would not the nation be involved in all the horrors of a long and bloody civil war? In whatever point of view, the effects of this scheme are contemplated, they present nothing but prospects at which every friend of mankind must shudder*.

* Mr. Adams.

SECT.

SECT. III.

REASONS FOR CONTENTMENT AND FEAR.

THERE are many invincible arguments, which should induce the malcontent party of England at this time to acquiesce entirely in the present settlement of the constitution.

Is not the present monarchical government, in its full extent, authorized by lawyers, recommended by divines, acknowledged by politicians, acquiesced in, nay passionately cherished, by the people in general; and all this during a period of at least a hundred and sixty years, and till of late, without the smallest murmur or controversy? This general consent surely, during so long a time, must be sufficient to render a constitution legal and valid. If the origin of all power be derived, as is pretended, from the people; here is their consent in the fullest and most ample terms that can be desired or imagined.

They must be sensible that the plan of liberty is settled; its happy effects are proved by experience; a long tract of time has given it stability; and whoever would

attempt to overturn it, would, besides other more criminal imputations, be exposed to the reproach of faction and innovation. They must be sensible that public liberty, with internal peace and order, has flourished almost without interruption: trade and manufactures, and agriculture, have increased: the arts, and sciences, and philosophy, have been cultivated. Even religious parties have been necessitated to lay aside their mutual rancour: and the glory of the nation has spread itself all over Europe; derived equally from our progress in the arts of peace, and from valour and success in war. So long and so glorious a period no nation almost can boast of: nor is there another instance in the whole history of mankind, that so many millions of people have, during such a space of time, been held together, in a manner so free, so rational, and so suitable to the dignity of human nature.

It is well known, that every government must come to a period, and that death is unavoidable to the political as well as to the animal body. But, as one kind of death may be preferable to another, it may be inquired, whether it be more desirable for the British Constitution to terminate in a popular government, or in absolute monarchy? Here I would frankly declare, that, though
liberty

liberty be preferable to slavery, in almost every case; yet I shall rather wish to see an absolute monarch than a republic in this island. For, let us consider, what kind of republic we have reason to expect. The question is not concerning any fine imaginary republic, of which a man may form a plan in his closet. There is no doubt, but a popular government may be imagined more perfect than absolute monarchy, or even than our present constitution. But what reason have we to expect that any such government will ever be established in Britain, upon the dissolution of our monarchy? If any single person acquire power enough to take our constitution to pieces, and put it up a-new, he is really an absolute monarch; and we have already had an instance of this kind, sufficient to convince us, that such a person will never resign his power, or establish any free government. Matters, therefore, must be trusted to their natural progress and operation; and the House of Commons, according to its present constitution, must be the only legislature in such a popular government. The inconveniences attending such a situation of affairs, present themselves by thousands. If the House of Commons, in such a case, ever dissolve itself, which is not to be expected, we may look for a civil war every election. If
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it continue itself, we shall suffer all the tyranny of a faction, subdivided into new factions. And, as such a violent government cannot long subsist, we shall, at last, after many convulsions, and civil wars, find repose in absolute monarchy, which it would have been happier for us to have established peaceably from the beginning. Absolute monarchy, therefore, is the easiest death, the true Euthanasia of the British constitution*.

* Hume.



